



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

February 15, 1991

Mr. Jack G. Willingham
District Attorney
259th Judicial District
Jones and Shackelford Counties
P. O. Box 507
Anson, Texas 79501

OR91-096

Dear Mr. Willingham:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 11470.

We have reviewed the file in issue and the documents contained therein. The file and its contents are related to pending litigation. Thus, you may withhold the contents of the file submitted to us for review in accordance with section 3(a)(3) of the Open Records Act. Section 3(a)(3), the litigation exception, "protects a governmental body's position in litigation, in part, by imposing the necessity that the adverse party develop information through the normal process of discovery." Open Records Decision No. 551 (1990) at 4-5; see also Open Records Decision Nos. 574 (1990), 575 (1990) for general discussion of inapplicability of discovery privileges to availability of exceptions. However, section 3(a)(3) will apply only until completion of the current litigation or if subsequent litigation is reasonably anticipated. Open Records Decision No. 551, supra, at 4.

Because a previous determination of this office, Open Records Decision No. 551 (1990), resolves your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-096.

Yours very truly,

A handwritten signature in cursive script that reads "Celeste A. Baker".

Celeste A. Baker
Assistant Attorney General
Opinion Committee

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Ref.: ID# 11470

Enclosure: Open Records Decision Nos. 551, 574, 575

cc: Mr. Robert C. Owen
Attorney at Law
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Austin, Texas 78701